

110TH CONGRESS
2D SESSION

H. R. 7300

To provide for the proper application under the Internal Revenue Code of 1986 of the limitations on built-in losses following an ownership change of a bank.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2008

Mr. DOGGETT (for himself, Mr. McDERMOTT, Mr. STARK, Mr. PASCRELL, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for the proper application under the Internal Revenue Code of 1986 of the limitations on built-in losses following an ownership change of a bank.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds as follows:

5 (1) A delegation of authority to the Secretary
6 of the Treasury, or his delegate, to prescribe such
7 regulations as may be necessary or appropriate to
8 carry out the purposes of a provision of the Internal
9 Revenue Code of 1986 does not authorize the Sec-

1 retary to exempt from that provision transactions
2 that would be clearly within the scope of the provi-
3 sion.

4 (2) Such an exemption is particularly trouble-
5 some when it is restricted to particular industries or
6 classes of taxpayers.

7 (3) Treasury Notice 2008–83 is inconsistent
8 with the congressional intent behind delegations of
9 regulatory authority of the type described in para-
10 graph (1).

11 (4) The legal authority to prescribe Treasury
12 Notice 2008–83 is doubtful.

13 (5) However, as taxpayers should generally be
14 able to rely on guidance issued by the Secretary of
15 the Treasury or his delegate, legislation is necessary
16 to clarify the force and effect of Treasury Notice
17 2008–83 and restore the proper application under
18 the Internal Revenue Code of 1986 of the limitation
19 on built-in losses following an ownership change of
20 a bank.

1 **SEC. 2. DETERMINATION OF FORCE AND EFFECT OF**
2 **TREASURY NOTICE 2008-83 EXEMPTING**
3 **BANKS FROM LIMITATION ON CERTAIN**
4 **BUILT-IN LOSSES FOLLOWING OWNERSHIP**
5 **CHANGE.**

6 (a) IN GENERAL.—Treasury Notice 2008-83—

7 (1) shall be deemed to have the force and effect
8 of law with respect to any ownership change (as de-
9 fined in section 382(g) of the Internal Revenue Code
10 of 1986) occurring during the period beginning on
11 September 30, 2008, and ending on the earlier of
12 the date of first committee action on this bill or the
13 date on which the Chairman of the Committee on
14 Ways and Means of the House of Representatives
15 and the Chairman of the Committee on Finance of
16 the Senate issue a joint statement indicating their
17 intention to terminate the application of such notice,
18 and

19 (2) shall have no force or effect with respect to
20 any ownership change during any other period.

21 (b) BINDING CONTRACTS.—Notwithstanding sub-
22 section (a), Treasury Notice 2008-83 shall have the force
23 and effect of law with respect to any ownership change
24 (as so defined) which occurs pursuant to a written binding
25 contract entered into during the period described in sub-
26 section (a).

1 **SEC. 3. INVESTIGATION OF CONFLICTS OF INTEREST.**

2 (a) IN GENERAL.—The Inspector General of the
3 Treasury shall conduct an investigation into the cir-
4 cumstances leading to the issuance of Treasury Notice
5 2008–83 and any conflicts of interest involving Treasury
6 officials who participated in decisions regarding Treasury
7 Notice 2008–83.

8 (b) REPORT.—The Inspector General of the Treasury
9 shall, not later than 6 months after the date of the enact-
10 ment of this Act, report the results of the investigation
11 conducted under subsection (a) to the Committee on Ways
12 and Means of the House of Representatives and the Com-
13 mittee on Finance of the Senate.

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